

### **REMARKS**

Reconsideration of the application in light of the following remarks is respectfully requested.

### **Status of the Claims**

Claims 1-9 are pending in this application. No claims have been amended. No new matter has been added. The claims are presented as a courtesy to the Examiner.

### **Rejections under 35 U.S.C. § 103**

Claims 1-3, 5 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,398,446 to Pazdirek et al. ("Pazdirek") in view of JP 2001-304238 to Takahashi.

Regarding claim 1, the Examiner contends that Pazdirek discloses all of the elements of claim 1 except an elastic material for the dust cover. Although the Examiner's diagram is difficult to interpret, it appears that the Examiner refers to annular ridge **92** as corresponding to the first lip portion, and the portion of boot **20** laterally adjacent to the integral raised annular flange **52** as corresponding to the second lip portion. The Examiner further contends that it is well known that a dust cover may be an elastic material, and in the alternative that Takahashi discloses an elastic dust cover, and that it would be obvious to combine Pazdirek with an elastic dust cover to permit flexing through a range of articulation. Applicants disagree with the Examiner and traverse.

Claim 1 recites that both the first and second lip portions protrude from an **outer** circumferential surface of the elastic dust cover to make contact with the brim portion. In contrast, Pazdirek discloses that only by the **inner** sealing surface **86** of boot **20** makes lateral contact with the integral raised annular flange **52**. Annular ridge **92**, also part of the **inner** sealing surface **86** of

boot **20**, makes contact with the flange **52** at groove **72** (see col. 3, lines 46-55; and FIG. 9). Outer sealing surface **88** of boot **20** makes no contact at all with the integral raised annular flange **52**.

Claim 1 further recites that the second lip portion is “tilted gradually.” The Examiner contends that the portion of Pazdirek identified as the second lip portion is “inherently capable” of tilting gradually. Applicants disagree with the Examiner’s conclusory statement.

The plain meaning of “tilt” or “tilted” is to have an inclination or slant with respect to a planar reference surface (see Exhibit A, Definitions). A lip-shaped object like second lip portion **56** of the present application has an axis along the length of the lip that would naturally be used to measure a tilt. Figure 2 of the present application shows the second lip portion **56** being “tilted gradually,” as recited in claim 1, because the axis of second lip portion **56** makes a relatively small but nonzero angle with respect to the plane of the outer circumferential surface **57**.

In contrast, Pazdirek FIG. 9 discloses that the inner sealing surface **86** of boot **20**, in the vicinity of its contact with the integral raised annular flange **52**, does not have a shape that provides an axis defining a tilt with respect to the plane of the outside surface of the integral raised annular flange **52**. Therefore, this portion of the inner sealing surface **86** of boot **20** cannot be “tilted gradually” as recited in claim 1.

Nor can the structure of Pazdirek be considered equivalent to the present application. In conditions when the ball stud sways with respect to its housing, the structure of Pazdirek is prone to form a gap between the ball stud and the housing. In contrast, the present application provides that each lip portion securely follows the brim portion and is closely fitted to it, thereby providing an improved sealing compared to the structure of Pazdirek.

For the above reasons, Pazdirek does not disclose or suggest the structure recited in claim 1. Rejected claims 2, 3, 5 and 9 depend upon independent claim 1 and should be allowable based on the remarks presented above with respect to claim 1. In view of the above remarks, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claims 4 and 6-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pazdirek and Takahashi as applied to claims 1-3, 5 and 9 above, and further in view of U.S. Patent No. 3,414,275 to Takahashi ("Takahashi '275"). The Examiner admits that Pazdirek fails to disclose a dust cover having a pocket portion, with a second lip portion and brim portion of the ball stud retaining a lubricant. The Examiner further contends that Takahashi '275 discloses this structure, and that it would be obvious to combine Pazdirek with Takahashi '275 in order to ease movement. Applicants disagree and traverse.

Claims 4 and 6-8 depend upon base independent claim 1. Applicants submit that Pazdirek does not disclose or suggest the structure recited in base claim 1, as discussed above. Therefore, the combination of Pazdirek and Takahashi '275 cannot disclose or suggest the structure recited in claims 4 and 6-8. In view of the above remarks, Applicants respectfully request reconsideration and withdrawal of this rejection.

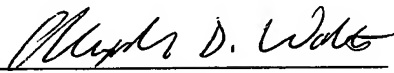
**CONCLUSION**

Each and every point raised in the Final Office Action dated January 2, 2009 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 1-9 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: February 27, 2009

Respectfully submitted,

By 

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**Exhibit A.**

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## tilt

2 entries found.

**2**tilt (transitive verb)**4**tilt (verb)☒ On ☐ OffMain Entry: **4**tiltFunction: *verb*Etymology: Middle English *tulten*, *tilten* to fall over, cause to fall, from Old English *\*tyltan*, *\*tieltan*, akin to Old English *tealt* unstable, *tealtian* to totter

Date: 1594

*transitive verb***1** : to cause to have an inclination**2 a** : to point or thrust in or as if in a tilt <*tilt* a lance> **b** : to charge against <*tilt* an adversary>*intransitive verb***1 a** : to move or shift so as to lean or incline : **SLANT** **b** : to incline, tend, or become drawn toward an opinion, course of action, or one side of a controversy**2 a** : to engage in a combat with lances : **JOUST** **b** : to make an impetuous attack <*tilt* at social evils>— **tilt·able** **4** \ˈtɪl-tə-bəl\ *adjective*— **tilt·er** *noun*

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<sup>2</sup>tilt (transitive verb)

<sup>4</sup>tilt (verb)

☒ On ☐ Off

Main Entry: <sup>2</sup>tilt

Function: *transitive verb*

Date: 15th century

: to cover or provide with a tilt

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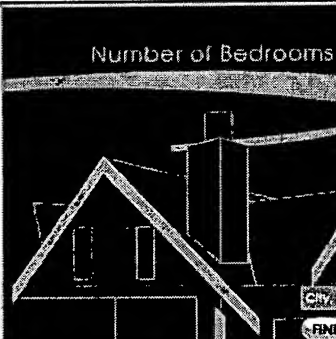
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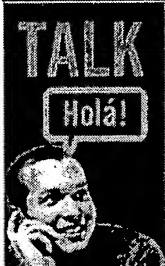
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Main Entry: **in·cli·na·tion**

Pronunciation: \in-klə-'nā-shən, -jŋ-\

Function: *noun*

Date: 14th century

**1 a** *obsolete* : natural disposition : **CHARACTER** **b** : a particular disposition of mind or character : **PROPENSITY** ; *especially* : **LIKING** <had little *inclination* for housekeeping>

**2** : an act or the action of bending or inclining; as **a** : **BOW** , **NOD** **b** : a tilting of something

**3 a** : a deviation from the true vertical or horizontal : **SLANT** ; *also* : the degree of such deviation **b** : an *inclined* surface : **SLOPE** **c** (1) : the angle determined by two lines or planes (2) : the angle made by a line with the x-axis measured counterclockwise from the positive direction of that axis

**4** : a tendency to a particular aspect, state, character, or action <the clutch has an *inclination* to slip>

— **in·cli·na·tion·al** \-shnəl, -shə-nəl/ *adjective*

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